

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 13-47729

PAUL MAJOR WILLARD, JR., and
SUSAN ESTHER WILLARD,

Chapter 13

Judge Thomas J. Tucker

Debtors.

BRYAN MAZEY,

Plaintiff,

v.

Adv. Pro. No. 13-4674

SUSAN ESTHER WILLARD, and
PAUL MAJOR WILLARD, JR.,

Defendants.

**ORDER DENYING, WITHOUT PREJUDICE, DEFENDANTS' MOTION FOR
INSTALLMENT PAYMENTS, AND CANCELLING MARCH 13, 2019 HEARING**

On November 26, 2013, the Court entered a consent judgment in favor of Plaintiff Bryan Mazey and against Defendants Susan Esther Willard and Paul Major Willard, Jr., in the amount of \$20,000 (Docket # 20, the "Judgment"). After the Plaintiff recently obtained garnishment writs, on October 16, 2018, the Defendants filed on February 15, 2019 a motion entitled "Motion For Installment Payments" (Docket # 32, the "Motion"), seeking an order permitting the Defendants to pay the Judgment amount in installments of \$225.00 per month.

The Motion is currently scheduled for a hearing to be held on March 13, 2019 at 10:00 a.m. Upon further review, however, the Court concludes that it must deny the Motion, because it is not supported by an affidavit, as required by applicable law.

Generally, Michigan procedural rules apply to garnishments and other methods used by the Plaintiff to try to collect a judgment of this federal court. *See generally* Fed. R. Civ. P. 69(a)(1), Fed. R. Bankr. P. 7069. Mich. Comp. Laws Ann. § 600.6201(2) states that "[a]ny judge may make a written order permitting the defendant to pay any judgment previously rendered in or transcribed to his court in installments, **upon compliance by the defendant with the provisions of this chapter and the rules of court.**" (Emphasis added.) Under Mich. Comp. Laws Ann. § 600.6205(3), a petition to the court for "an order permitting the defendant to pay any judgment

previously rendered in or transcribed to his court in installments” must “be **supported by the affidavit of the moving party** setting forth his inability to pay the judgment with funds other than those earned by him as wages, and setting forth the name and address of his employer, the amount of the wages and the date of payment thereof.” Mich. Comp. Laws Ann. § 600.6205(3) (emphasis added).

Here, the Motion is not supported an affidavit as required by Mich. Comp. Laws Ann. § 600.6205(3). The document filed by the Defendants is not an affidavit, because the affidavit form (pdf page 4) is not even signed, and nowhere are the Defendants’ signatures notarized.¹

Accordingly,

IT IS ORDERED that the Motion (Docket # 32) is denied, without prejudice to the Defendants’ right to file a new such motion that is properly supported by an affidavit.

IT IS FURTHER ORDERED that the hearing scheduled for March 13, 2019 is cancelled.

Signed on March 8, 2019



/s/ **Thomas J. Tucker**

Thomas J. Tucker
United States Bankruptcy Judge

¹ The Court expresses no opinion at this time as to whether the document that the Defendant filed would, if notarized, demonstrate the Defendant’s “inability to pay the judgment with funds other than those earned by [her] as wages.”